

1 Mr. Besser.)

2 Q BY MR. BESSER: Now, just so I'm clear on what  
3 I've now marked as Exhibit 2 on the CD, there are copies  
4 of all of the songs that are mentioned in Exhibit A to  
5 the complaint?

6 A Yes.

7 Q Now, you say you object to No. 2, which is,  
8 "Copies of the sound recordings and/or sheet music that  
9 were deposited with the United States Copyright  
10 Office...." is that correct? You're objecting to that?

11 A I don't believe you read the full question.

12 Q Oh. "...Copyright Office to secure the  
13 copyrights attached as Exhibit B to the complaint."

14 A Yes. I'm objecting to that based on the fact  
15 that it's irrelevant to this case.

16 Q And why is it irrelevant?

17 A Those songs are not in question.

18 MR. BESSER: Let me mark, then, as next in  
19 order a copy of the complaint, which I think I have  
20 here. Yes, this would be Exhibit No. 3.

21 (Defendant's Exhibit 3 was marked  
22 for identification.)

23 Q BY MR. BESSER: And I'd like you to look at  
24 your -- well, first of all, that's the complaint you  
25 filed in this action; is that correct? I think my

1 which you're not claiming an infringement for in this  
2 case. But among the songs listed on Exhibit B are the  
3 songs that you're claiming infringement of. Is that  
4 correct?

5 A Can you repeat the question? I'm not sure I  
6 understand.

7 Q Let me say it a little better, hopefully. The  
8 songs that are the subject of this action, that is, the  
9 songs that you're claiming have been infringed, were  
10 copyrighted by you; is that correct?

11 A Yes.

12 Q Were they copyrighted pursuant to Exhibit B,  
13 that is, the copyright certificates attached to the  
14 complaint?

15 A Yes.

16 Q What did you deposit with the Copyright Office  
17 at the time you filed your application for copyright  
18 pertaining to the copyright certificates you've attached  
19 as Exhibit B to the complaint?

20 A Speaking specifically to the first copyright  
21 paper, I mean, copyright registration, a CD.

22 Q And just so we're --

23 A Because there are three forms here. I just  
24 want to make that clear, I'm referring to the  
25 registration form No. 1PAU2864138.

1           Q     The copyright claimed is Zion Pick. Do you  
2 know who Zion Pick is?

3           A     Mr. Snyder could testify to that better than I  
4 could.

5           Q     So two songs are covered by No. 25, and the  
6 other 13 songs are the ones covered by the application  
7 on page 23 and the application on page 27.

8           A     Yes.

9           Q     Now, talking about the application on page 27,  
10 do you know what you deposited with the copyright office  
11 to procure that registration?

12          A     A CD.

13          Q     And do you have available to you a copy of the  
14 CD that you deposited?

15          A     I'm sorry. I gave you the CD today with the 15  
16 songs on it in reference to the songs subject to this  
17 case.

18          Q     So if I look at the 11 songs you just listed as  
19 being part of the copyright registration that's page 27,  
20 those 11 songs are on the CD you gave me today. But  
21 were they also on the CD that you deposited with the  
22 Copyright Office?

23          A     You have to restate that question. I'm not  
24 sure I understand you.

25          Q     Okay. What I'm trying to make clear is whether

1 or not the songs that you gave me on the CD today, that  
2 are covered by page 27, were also on the CD that you  
3 deposited with the Copyright Office.

4 A I believe you answered your own question. I  
5 just gave you a list of the songs right there.

6 Q But I'm interested in what your actual deposit  
7 copies were, what you gave the Copyright Office to --

8 A The songs on this CD that I gave you today with  
9 the 15 -- 12 -- what is that, 13 of the songs that I  
10 gave you today, it's a total of 15, but 13 of these are  
11 in relation to the two copyright papers that you're  
12 referring to on page 23 and page 27 of the complaint.

13 Q But when you filed the copyright application  
14 that's dealt with on page 27, did you give the Copyright  
15 Office titles of the various songs that were involved?

16 A Did I give them titles?

17 Q Yes.

18 A No, I didn't give them titles. Titles to page  
19 23, yes, there were titles to page 23. But page -- it  
20 was a method of saving time and energy, so I just  
21 basically labeled it as a library of work instead of  
22 labeling each individual title, because I wouldn't have  
23 the space.

24 Q And in that library of work were all of the  
25 songs that are on the CD you gave me, other than the two

1        secretary might have miscopied. If you want to look at  
2        the first page. Oh, I guess that's just a cover sheet.

3            A        To the best of my recollection, yes.

4            Q        I just want you to look at Exhibit B. I don't  
5        think there's any dispute about what the complaint is.  
6        But I just wanted to have it available so you can look  
7        at Exhibit B to the complaint. And I see that when my  
8        secretary made copies of this, she left in all my  
9        handwritten notes. It is what it is. I'm not saying  
10       the complaint contained those when you served it.

11                    You just told me that the songs in Exhibit B  
12       are not in dispute, and I want to know what you meant by  
13       that.

14            A        No, the songs that you said -- let me get this  
15       correct -- "copies of the sound recordings or sheet  
16       music that were deposited with the United States  
17       Copyright Office to secure copyrights as Exhibit B."

18            Q        Right.

19            A        I'm taking that as meaning every single song,  
20       and not the songs in question. The songs in question  
21       are provided to you here today on CD as you asked  
22       before, and I actually supplied those to you before.

23            Q        Okay. So that you understand why I consider  
24       them to be relevant, I recognize that there would be  
25       other songs involved in the copyright registrations